

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on March 6, 2001 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Brad Newman (D)
Rep. Diane Rice (R)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **SJ 2 - 2-19-01**
SB 209 - 2-19-01
SB 229 - 2-19-01

SB 113 - 2-19-01

Executive Action: **SB 254 - BCI**
SB 113 - BCI
SB 20 - BCIAA
SB 209 - BCIAA
SB 1 - Table

HEARING ON SB 113

Sponsor: Senator Linda Nelson, SD 49, Medicine Lake said this Bill is the result of a legislative audit that was done during the interim. When the legislature de-earmarked many accounts in 1995 it intended that the crime victims in the assistance account be paid from the general fund. The corresponding statutes have never been changed to reflect that. Prior to that time, the crime victims' account received 18% of all Highway Patrol fines and forfeitures to operate that account. This Bill simply makes those changes and is a clean-up Bill. The program is still there but the funding no longer comes from fines and forfeitures from the Highway Patrol.

Proponents: None

Opponents: None

Questions from Committee Members and Responses: Reps. Laszloffy, Shockley to Senator Nelson.

Closing by Sponsor: Senator Nelson closed the Hearing on SB 113.

EXECUTIVE ACTION ON SB 113

Motion/Vote: REP. ADAMS moved that SB 113 BE CONCURRED IN. #1
 Motion carried unanimously 20-0.

EXECUTIVE ACTION ON SB 1

Motion: REP. CLANCY moved that SB 1 BE CONCURRED IN. #2

Discussion: Reps. Harris, Gallus, Laszloffy, Hurdle, Noennig.

Motion/Vote: REP. NOENNIG moved that SB 1 BE TABLED. #3 Motion carried 12-8 with Reps. Shockley, Laszloffy, Adams, Clancy, Curtiss, Rice, Wolery and Younkin voting no.

HEARING ON SB 229

Sponsor: Senator Vicki Cocchiarella, SD 32, Missoula said this Bill is a clarification of the Montana Human Rights Act. This Bill attempts to put Montana on the same footing as 30 other states in the nation allowing an employer to offer a job to an employee's spouse or to retain the spouse of an employee. In Montana, right now, businesses and the University System who employ several spouse combinations, cannot use marital status to determine employment. Even if the couple is in a job-sharing situation, they cannot be hired because they are married.

Proponents: Nancy Borgman, Director, Equal Opportunity Office, University of Montana, Missoula.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 28.1}

Don Christian, University of Montana

Inga Nelson, MEA-MFT, Helena

LeRoy Schramm, Legal Counsel, Board of Regents,
Montana University System.

Opponents: None

Questions from Committee Members and Responses: Reps. Mangan, Adams, Peterson, Noennig, Shockley to Mr. Christian, Senator Cocchiarella, Mr. Schramm.

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 28.1}

Closing by Sponsor: Senator Cocchiarella closed the Hearing on SB 229.

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 14.5}

HEARING ON SJR 2

Sponsor: Senator Mignon Waterman, SD 26, Helena said this Resolution simply requires that the Department of Public Health and Human Services and the Department of Corrections coordinate and collaborate with state agencies, local government, and the judiciary on training and education programs, issues surrounding people with mental illness in the criminal justice and corrections system. Now there is a two-hour training at the Law Enforcement Academy. Until this last year it was only one hour

in their basic training. All of the sheriffs and peace officers recognize that isn't adequate so they have asked for and support this legislation.

The Department of Public Health will take the lead in designing this training but it will be delivered around the state to help people understand and recognize mental illness, co-occurring illnesses and how to deal with those effectively.

Proponents: Randy Poulsen, Chief, Mental Health Services Bureau, Department of Public Health and Human Services.

Erin McGowan, Montana Council of Community Mental Health Centers and the Montana Sheriffs and Peace Officers Association.

Al Davis, Mental Health Association of Montana.

Colleen Murphy, Executive Director, Montana National Association of Social Workers.

Jim Campbell, Montana Catholic Conference

Informational Witness: Winnie Ore, Department of Corrections.

{Tape : 2; Side : A; Approx. Time Counter : 14.5 - 29.4}

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 1.4}

Chairman Shockley considered Ms. Ore as an Opponent Witness.

Rep. Younkin asked, for the record, her objection to Ms. Ore being considered an Opponent Witness.

Questions from Committee Members and Responses: Reps. Peterson, Holden, Mangan, Hurdle, Newman, Shockley to Senator Waterman; without objection, Jim Oppedahl, Executive Director, Montana Board of Crime Control.

Closing by Sponsor: Senator Waterman closed the Hearing on SJR2.

{Tape : 2; Side : B; Approx. Time Counter : 2 - 13.3}

HEARING ON SB 209

Sponsor: Senator Mignon Waterman, SD 26, Helena said this Bill is a clarification of the constitutional balancing test of the individual right to privacy and the public right to know.

She cited a murder case in which a woman was killed by a parolee of the prison system. It was settled and that settlement was ultimately appealed to the Supreme Court on whether or not the terms and amount of the settlement would be released. The settlement was made public and the Supreme Court, in their decision, issued language saying "a legislative enactment". Section 1 of the Bill shows that existing statute, "a legislative enactment that elevates the right to know to an absolute right without any consideration of an individual's right to privacy, cannot pass constitutional muster". That is the reason for this Bill.

It is important that the public have a right to know. That is what the legislature meant when they passed the original statute and she would hate to see a future court challenge thrown out, with this provision in law. Therefore, she proposes to add line 21, that states "they are available for public inspection unless the right to individual privacy clearly exceeds the merits of public disclosure". That comes straight from the Montana Constitution.

She has been approached to add an amendment **EXHIBIT(juh51a01)** and explained it.

Proponents: Jim Fall, Executive Director, Montana Newspaper Association.

John Kuglin, Montana Bureau Chief, Associated Press.

John Shontz, Montana Newspaper Association

Opponents: None

Questions from Committee Members and Responses: Reps. Peterson, Eggers, Holden, to Senator Waterman, Mr. Fall, Mr. Schontz.

Closing by Sponsor: Senator Waterman closed the Hearing on SB 209.

{Tape : 2; Side : B; Approx. Time Counter : 13.3 - 29.1}

{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 0.6}

EXECUTIVE ACTION ON SB 209

Motion: REP. NEWMAN moved that SB 209 BE CONCURRED IN. #4

Motion/Vote: REP. NEWMAN moved that SB 209 BE AMENDED, EXHIBIT 1, (020901). #5 Motion carried unanimously 20-0.

Motion/Vote: REP. NEWMAN moved that SB 209 BE CONCURRED IN AS AMENDED. #6 Motion carried unanimously 20-0.

EXECUTIVE ACTION ON SJR 2

Motion: REP. GALLUS moved that SJR 2 BE CONCURRED IN. #7 Passed for the day for study.

EXECUTIVE ACTION ON SB 20

Motion: REP. NEWMAN moved that SB 20 BE CONCURRED IN. #8

Discussion: Reps. Noennig, Mangan, Peterson.

Motion/Vote: REP. SHOCKLEY moved that SB 20 BE AMENDED, line 20 substitute for the word "Judge" "Justice of the Supreme Court". #9. Motion carried unanimously 20-0.

Motion/Vote: REP. MANGAN moved that SB 20 BE CONCURRED IN AS AMENDED. #10 Motion carried unanimously. 20-0

EXECUTIVE ACTION ON SB 254

Motion/Vote: REP. NEWMAN moved that SB 254 BE CONCURRED IN. #11 Motion carried unanimously 20-0.

Discussion: Reps. Younkin, Newman.

EXECUTIVE ACTION ON SB 204

Motion: REP. GALLUS moved that SB 204 BE CONCURRED IN. #12

Motion: REP. GALLUS moved that SB 204 BE AMENDED. #13

Discussion: Reps. Younkin, Noennig, Newman, Hurdle, Gallus, Clark, Mangan, Peterson.

Chairman Shockley said, while the Committee is discussing the above Bill, it appears the Committee will have to consider drafting another Committee Bill to address a February 14, 2001

case by the Supreme Court. He asked **Rep. Newman** to study and advise.

{Tape : 3; Side : A; Approx. Time Counter : 0.4 - 30.4}

Motion/Vote: REP. GALLUS moved that SB 204 BE POSTPONED UNTIL 3-13-01. #14 Motion carried unanimously 20-0.

Discussion: Rep. Peterson asked for a point of order. He has a problem with the intent of the Bill, Page 2, based on the criminal judgement for restitution. His problem is with lines 18,19 and 20 which he thinks is inconsistent with that concept. He feels the criminal judgement for restitution should be evidence and a basis for civil action. Chairman Shockley suggested to Rep. Peterson he could draft an amendment.

Reps. Newman, Gallus, Noennig said he already had an amendment addressed to that. **EXHIBIT**(juh51a02)

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 6.5}

ADJOURNMENT

Adjournment: 10:55 A.M.

REP. JIM SHOCKLEY, Chairman

MARY LOU SCHMITZ, Secretary

JS/MS

EXHIBIT (juh51aad)